



Office of the Attorney General

State of Texas

April 22, 1992

DAN MORALES  
ATTORNEY GENERAL

Mr. Leonard W. Peck, Jr.  
Assistant General Counsel  
Texas Department of Criminal Justice  
Institutional Division  
P.O. Box 99  
Huntsville, Texas 77342-0099

VIA FACSIMILE  
AND  
U. S. MAIL

OR92-172

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15702.

The Texas Department of Criminal Justice (the "department") has received a request for any and all information in the possession of the department relating to an inmate scheduled to be executed April 23, 1992. Specifically, the request includes, but is not limited to:

medical and/or psychiatric records, legal records, any social or disciplinary reports and evaluations, placement and classification records, and any other documentation and correspondence concerning [the inmate and] . . . copies of any records from outside institutions which TDC maintains on [the inmate].

You do not object to release of some of the requested information. You claim, however, that a document contained in the inmate's unit file is excepted from required public disclosure by sections 3(a)(1) and 3(a)(8) of the Open Records Act.

Section 3(a)(8) excepts:


records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)); see also Open Records Decision No. 413 (1984) (Department of Corrections is a "law enforcement" agency within the meaning of section 3(a)(8)).

You have submitted to us for review a document which identifies an "enemy" of the inmate. You advise us that release of the identity of the "enemy" could result in retaliation against the source of the information and thus undermine the security of the prison. We agree. Because release of the identity of the "enemy" and information which might tend to identify him would undermine a legitimate interest of law enforcement, we conclude that the document may be withheld in its entirety from required public disclosure under section 3(a)(8) of the Open Records Act. As we resolve this matter under section 3(a)(8), we need not address the applicability of section 3(a)(1) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-172.

Yours very truly,



William Walker  
Assistant Attorney General  
Opinion Committee

WW/GCK/lmm

Ref.: ID# 15702  
ID# 15742

cc: Mr. Anthony S. Haughton  
Staff Attorney  
Texas Resource Center  
1206 San Antonio  
Austin, Texas 78701